

BOISE, THURSDAY, OCTOBER 16, 2008, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33450

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
FRANK GERARDO,)
)
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Frank Gerardo appeals from his convictions for burglary and attempted robbery. He contends that the district court made numerous errors in the admission of evidence at his trial and that the trial evidence was insufficient to sustain a jury finding that he was one of the perpetrators. He further asserts that the district court made numerous errors in instructing the jury. Finally, Gerardo asserts that the district court erred in denying his motion to correct an illegal sentence.

BOISE, THURSDAY, OCTOBER 16, 2008, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33950

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
WILLIAM TROY HEDGECK,)
)
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Gooding County. Hon. R. Barry Wood, District Judge.

Molly J. Huskey, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

William Troy Hedgecock was placed on probation for five years after pleading guilty to possession of methamphetamine and attempted forgery. As a condition of his probation, he agreed that his person, residence, or vehicle could be searched at any time by any probation or police officer. Subsequently, Hedgecock's probation officer visited his apartment but Hedgecock was not at home. The officer found some items of "concern" as well as illegal drugs on the person with whom Hedgecock was residing. A police officer arrived to assist the probation officer. The two were standing on the balcony of the apartment when they saw a vehicle pull up to a stop sign about fifty yards away, which the police officer recognized as the vehicle Hedgecock had been riding in a week prior. The vehicle paused briefly and then accelerated quickly away from the stop sign. The probation officer directed police officers to stop the vehicle to determine if Hedgecock was inside. The officers conducted the stop and identified Hedgecock as the passenger. An officer conducted a search of the vehicle, which revealed what the officer believed to be counterfeit one hundred dollar bills.

Hedgecock was charged with possession of forged bank bills, Idaho Code § 18-3605. He filed a motion to suppress, claiming the search was unlawful and the evidence recovered and his statements made should be suppressed. The court denied the motion, and Hedgecock subsequently entered a conditional guilty plea, reserving the right to appeal the denial of his suppression motion. He now appeals.

BOISE, THURSDAY, OCTOBER 16, 2008, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	Docket No. 33241
Plaintiff-Respondent,)	
)	
v.)	
)	
GABRIEL CARLOS HERRERA aka LUIS)	
MONTES GARCIA,)	
)	
Defendant-Appellant.)	

<hr/> STATE OF IDAHO,)	
)	Docket No. 33284
Plaintiff-Respondent,)	
)	
v.)	
)	
FELIPE DE JESUS OERNELAS-PEREZ)	
aka WILLIAM OMAR MARTINEZ-)	
SANCHEZ,)	
)	
Defendant-Appellant.)	
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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Stephen D. Thompson, Ketchum, for appellant Gabriel Carlos Herrera.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant Felipe Oernelas-Perez.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Kenneth K. Jorgensen, Deputies Attorney General, Boise, for respondent.

Gabriel Carlos Herrera and Felipe De Jesus Oernelas-Perez were charged with conspiracy to traffic in heroin and conspiracy to traffic in cocaine. After a jury trial they were convicted of conspiracy to traffic in heroin and delivery of cocaine. Their cases are consolidated for oral argument.

Herrera and Oernelas-Perez contend that there was not sufficient evidence to support the jury's finding as to the amount of heroin involved in the heroin trafficking charge. They also contend that the court improperly reconciled inconsistencies in the jury's verdict on the cocaine trafficking charge, thereby convicting the defendants of delivery of cocaine, which was not the offense with which they had been charged. Herrera and Oernelas-Perez, who cannot communicate proficiently in English, also contend that their constitutional rights to due process and to confront witnesses, as well as certain Idaho statutes and court rules, were violated when the court did not provide the defendants separate interpreters on the third and final day of trial and instead made them share one interpreter.